

cont'd  
B1  
information in the memory, wherein the step of detecting foreign particle defects is performed in real time.--

---

REMARKS

By the above amendment, new dependent claims 26 and 27 have been added, which recite features of claims 4 and 8, respectively, dependent from claim 1.

As to the requirement for restriction to one of the inventions identified as invention I - claims 1-3, 10-16, 20-25, drawn to detecting semiconductor defect and transporting the semiconductor between processing stations, classified in class 356, subclass 237.5; invention II - claims 4-7, 17-19, drawn to adjusting the operation of the semiconductor fabrication line, classified in class 324, subclass 758; and invention III - claims 8-9, drawn to statistically recording defects; classified in class 356, subclass 237.5; such requirement is traversed as being improper for the reasons set forth below.

At the outset, applicants note that this restriction requirement is set forth after the Examiner has acted on the merits with respect to claims now considered to be distinct inventions, in that claims 1-11 were originally presented and were not amended in the Amendment of January 15, 2002, and all claims of the now alleged different inventions were treated on the merits in the Office Action dated August 15, 2001, such

that it is apparent that the Examiner did not consider the claimed subject matter to be distinct with no changes in claims 1-11 being presented. Applicants submit that although 37 CFR 1.142 indicates that although the requirement will normally be made before any action on the merits, it may be made at any time before final action, it is considered that the requirement for restriction to unamended claims previously treated on the merits is improper, and represents piecemeal action on the part of the U.S. Patent and Trademark Office. Thus, the requirement for restriction should be withdrawn.

Furthermore, the Examiner's indication that the inventions "have acquired a separate status in the art because of their recognized divergent subject matter" (emphasis added) is belied by Examiner's admission that inventions I and III in the same class and subclass of class 356, subclass 237.5. Thus, it is apparent that at least with respect to such inventions, separate status in the art is not present. Hereagain, for this reason, the requirement for restriction should be withdrawn.

While the Examiner contends that the various inventions are subcombinations disclosed as usable together in a single combination, referring to the requirements of MPEP §806.05(d) and that the inventions are related as combination and subcombination, referring to the requirements of MPEP §806.05(c), irrespective of the position set forth by the

Examiner, the features of claim 4 of invention II and claim 8 of invention III, apparently considered by the Examiner to distinguish from the features of claim 1 of invention I, have now been set forth in dependent claims as new dependent claims 26 and 27 dependent upon claim 1, and therefore such claims are necessarily part of invention I. Thus, any so-called distinctions with respect to these features are no longer present, since these features are present in the claims of invention I, such that for this reason also, the requirement for restriction should be withdrawn.

In order to provide a complete response to the restriction requirement, applicants provisionally elect, with traverse, invention I including claims 1-3, 10-16 and 20-27. However, as pointed out above, since at least claims 8 and 9 of invention III are classified in the same class and subclass as invention I, such claims should be considered at this time

In view of the above amendments and remarks, reconsideration and withdrawal of the restriction requirement and favorable action with respect to all claims present in this application are respectfully requested.

To the extent necessary, applicant's petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account

No. 01-2135 (501.30598CC3) and please credit any excess fees  
to such deposit account.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Melvin Kraus', written in a cursive style.

Melvin Kraus  
Registration No. 22,466  
ANTONELLI, TERRY, STOUT & KRAUS, LLP

MK/cee  
(703) 312-6600